

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NOS: 3:15-cv-134 & 3:15-cv-320**

ERNEST HOLMES III,)
)
Plaintiff,)
v.)
)
ESCALLATE, LLC,)
)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court on Defendant’s Motions to Consolidate (3:15-cv-134 Doc. No. 11; 3:15-cv-320 Doc. No. 5). Plaintiff filed suit against Escallate in this Court on March 19, 2015 alleging violations of 47 U.S.C. § 227 (the Telephone Consumer Protection Act or “TCPA”) and 15 U.S.C. § 1692 (the Fair Debt Collection Practices Act or “FDCPA”) based on a number of phone calls allegedly made by Defendant. It appears that Plaintiff also filed suit against this same Defendant in Mecklenburg County Superior Court on June 23, 2015 alleging nearly identical facts, and with the addition of a claim under N.C.G.S. § 58-70-90 (the North Carolina Collection Agency Act or “NCCAA”).

Defendant asks that these cases be consolidated pursuant to FRCP 42(a)(2), as the two cases involve precisely the same facts and parties, and because allowing multiple actions to proceed could result in multiple recoveries, as well as duplicate time, effort, and resources on the part of the Court and the parties. Having reviewed the separate complaints in these cases, the Court agrees that consolidation is appropriate for the reasons stated in Defendant’s motion.

IT IS THEREFORE ORDERED that Defendant's Motion to Consolidate (3:15-cv-134 Doc. No. 11) is **GRANTED**. These cases are hereby consolidated pursuant to FRCP 42(a)(2), and shall proceed as one action under case number 3:15-cv-134. All future filings should be made in case number 3:15-cv-134. Accordingly, the motion to consolidate filed in case number 3:15-cv-320 (Doc. No. 5) is **DENIED as MOOT**.

The Clerk of Court is respectfully directed to send a copy of this order to the Plaintiff, and to close case number 3:15-cv-320.

SO ORDERED.

Signed: August 18, 2015

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

